

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 518 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

MOHAMMAD HANIF ABDUL KARIM DINGI

Versus

STATE OF GUJARAT

Appearance:

MR MM TIRMIZI for Petitioner

MR ST MEHTA ADDL PUBLIC PROSECUTOR for Respondent No. 1

MR JM BUDDHBHATTI for Respondent No. 2

NOTICE SERVED BY DS for Respondent No. 3

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 04/11/1999

ORAL JUDGEMENT

#. Heard Mr.Tirmizi, learned advocate appearing for the petitioner and Mr.S.T.Mehta, learned APP appearing for Respondent No.1 State and Mr.Buddhbhatti for respondent No.2. Learned advocates appearing for the parties have not pressed for a reasoned order. The prayer of the petitioner is that pending hearing and disposal of the

Criminal Case instituted against the accused of the crime registered in Kodinar police station being C.R. No : III/5116 / 99, the truck intercepted by the police should be released and be handed over to him. It is also prayed and submitted before this Court that the petitioner is ready to abide by any such conditions which may be imposed. It is not matter of the dispute that the petitioner is the owner of the truck and dealing with in transport business in name and style of Super Roadlines. He has tried to submit that the truck in question was given on hire to respondent No.2. Respondent No.2 has tendered his affidavit today which confirms the case of the petitioner. Without going into merits of the submissions advanced before this Court, to avoid deterioration and considering the fact that the heavy vehicle being useful national property should be given to the owner of the vehicle. This vehicle has been intercepted and seized for the offence punishable under the Bombay Prohibition Act and there is ample scope of the confiscation of the vehicle, so vehicle should be released on stringent conditions and on security of proper amount. So, in view of the above, the application is allowed. The motor truck bearing registration No : GJ-1V-6941 is ordered to be released and the same be handed over to the petitioner - Mohammad Hanif Abdul Karim Dingi on proper identification on following terms and conditions;

- a) That he shall furnish the solvent surety of Rs.2.50 lacs and personal bond of of like amount.
- b) That the petitioner shall keep the vehicle in good conditions;
- c) That the petitioner shall not sell or transfer the vehicle in any manner without permission of the trial court;
- d) That the petitioner shall ensure that the vehicle does not involved in any illegal activity, and;
- e) The petitioner shall produce the vehicle either before the investigating agency or before the Court whenever he is asked to do so,
- f) The vehicle if found used in transporting any prohibited liquor or contraband articles or material prohibited under the NDPS Act, this order of releasing the vehicle come to an end automatically and the petitioner shall surrender the vehicle before the concerned Court.

- g) The petitioner shall not make any material change in the outward appearance of the truck including the colour of the vehicle and shall keep the vehicle in good condition so that the vehicle can be identified if the same required during the trial.
- h) In the event of major repairs, the concerned court should be informed in advance and the petitioner should see that the truck is put in the original shape and colour in reasonable period of time.
- i) Before taking possession and custody of the truck, the investigating agency shall take the colour photograph of the truck from three dimensions and shall keep the same with the papers of investigation at the cost of the investigating agency.

#. Rule is made absolute accordingly.

Date : 4-11-1999 [C.K.Buch, J.]

#kailash#